



February 15, 2008

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## ENGROSSED SENATE BILL No. 363

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DIGEST OF SB 363 (Updated February 13, 2008 6:27 pm - DI 77)

**Citations Affected:** IC 10-14.

**Synopsis:** Uniform emergency health practitioners act. Codifies the uniform emergency volunteer health practitioners act to provide a procedure for recognizing other states' licenses for health practitioners who volunteer to provide assistance during an emergency requiring significant health care assistance. Provides for the creation of a registration system that: (1) out-of-state practitioners may use before or during a disaster; (2) may coincide with existing state or federal registration systems; and (3) allows, upon registration, a health practitioner to contribute professional skills to existing organized disaster efforts.

**Effective:** July 1, 2008.

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**Simpson, Miller**

(HOUSE SPONSORS — WELCH, FOLEY)

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January 14, 2008, read first time and referred to Committee on Health and Provider Services.

January 24, 2008, reported favorably — Do Pass.

January 28, 2008, read second time, ordered engrossed. Engrossed.

January 29, 2008, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 4, 2008, read first time and referred to Committee on Public Health.

February 14, 2008, reported — Do Pass.

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ES 363—LS 6804/DI 104+



February 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 363

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A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 10-14-3-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this  
3 chapter, "emergency management worker" includes any full-time or  
4 part-time paid, volunteer, or auxiliary employee of:  
5       (1) the state;  
6       (2) other:  
7       (A) states;  
8       (B) territories; or  
9       (C) possessions;  
10       (3) the District of Columbia;  
11       (4) the federal government;  
12       (5) any neighboring country;  
13       (6) any political subdivision of an entity described in subdivisions  
14       (1) through (5); or  
15       (7) any agency or organization;  
16 performing emergency management services at any place in Indiana  
17 subject to the order or control of, or under a request of, the state

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government or any political subdivision of the state. **The term includes a volunteer health practitioner registered under IC 10-14-3.5.**

SECTION 2. IC 10-14-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

- (1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and
- (2) terminates the state of disaster emergency by executive order or proclamation.

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

- (1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and
- (2) is authority for:
  - (A) deployment and use of any forces to which the plan or plans apply; and
  - (B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

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(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who:

**(A) are registered as volunteer health practitioners by an approved registration system under IC 10-14-3.5; or**

**(B) hold a license to practice medicine, dentistry, pharmacy,**

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nursing, engineering, **veterinary medicine, mortuary service**, and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 3. IC 10-14-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 3.5. Uniform Emergency Volunteer Health Practitioners Act**

**Sec. 1.** As used in this chapter, "disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and:

- (1) is designated or recognized as a provider of the services under a disaster response and recovery plan adopted by an agency of the federal government or the state emergency management agency; or
- (2) regularly plans and conducts the entity's activities in coordination with an agency of the federal government or the state emergency management agency.

**Sec. 2.** As used in this chapter, "emergency" means an event or condition that is an emergency, a disaster, or a public health emergency under this article.

**Sec. 3.** As used in this chapter, "emergency declaration" means a declaration of emergency issued by a person authorized to do so under state or local laws of Indiana.

**Sec. 4.** As used in this chapter, "Emergency Management Assistance Compact" means the federal interstate compact under P.L.104-321, 110 Stat. 3877.

**Sec. 5.** As used in this chapter, "entity" means a person other than an individual.

**Sec. 6.** As used in this chapter, "health facility" means an entity licensed under the laws of Indiana or another state to provide health or veterinary services.

**Sec. 7.** As used in this chapter, "health practitioner" means an individual licensed under the laws of Indiana or another state to provide health or veterinary services.

**Sec. 8.** As used in this chapter, "health services" means the

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provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of individuals or human populations to the extent necessary to respond to an emergency, including:

(1) with respect to the physical or mental condition or functional status of an individual or the structure or function of the body:

(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(B) counseling, assessment, procedures, or other services;

(2) the sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(3) funeral, cremation, cemetery, or other mortuary services.

Sec. 9. As used in this chapter, "host entity" means an entity operating in Indiana that uses volunteer health practitioners to respond to an emergency.

Sec. 10. (a) As used in this chapter, "license" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization.

(b) The term includes authorization under Indiana law to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

Sec. 11. As used in this chapter, "person" means an individual, a corporation, a business trust, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, an agency, an instrumentality, or another legal or commercial entity.

Sec. 12. As used in this chapter, "scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including conditions imposed by the licensing authority.

Sec. 13. As used in this chapter, "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

Sec. 14. As used in this chapter, "veterinary services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of an animal or to animal populations to the extent necessary to respond to an emergency,

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including:

- (1) diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;
- (2) use of a procedure for reproductive management; and
- (3) monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

Sec. 15. (a) As used in this chapter, "volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) The term does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Indiana, unless the practitioner is not a resident of Indiana and is employed by a disaster relief organization providing services in Indiana while an emergency declaration is in effect.

Sec. 16. This chapter applies to volunteer health practitioners who:

- (1) are registered with a registration system that complies with section 18 of this chapter; and
- (2) provide health or veterinary services in Indiana for a host entity while an emergency declaration is in effect.

Sec. 17. (a) While an emergency declaration is in effect, the state emergency management agency may limit, restrict, or otherwise regulate:

- (1) the duration of practice by volunteer health practitioners;
- (2) the geographical areas in which volunteer health practitioners may practice;
- (3) the types of volunteer health practitioners who may practice; and
- (4) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued under subsection (a) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in Indiana shall:

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- (1) consult and coordinate the host entity's activities with the state emergency management agency to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and
- (2) comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including this article.

Sec. 18. (a) To qualify as a volunteer health practitioner registration system, a system must:

- (1) accept applications for the registration of volunteer health practitioners before or during an emergency;
- (2) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;
- (3) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and
- (4) meet one (1) of the following conditions:
- (A) Be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under section 319I of the federal Public Health Services Act, 42 U.S.C. 247d-7b.
- (B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under section 2801 of the federal Public Health Services Act, 42 U.S.C. 300hh.
- (C) Be operated by a:
- (i) disaster relief organization;
- (ii) licensing board;
- (iii) national or regional association of licensing boards or health practitioners;
- (iv) health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or
- (v) governmental entity.
- (D) Be designated by the state emergency management agency as a registration system for purposes of this chapter.
- (b) While an emergency declaration is in effect, the state emergency management agency, a person authorized to act on

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1 behalf of the state emergency management agency, or a host entity  
 2 may confirm whether volunteer health practitioners used in  
 3 Indiana are registered with a registration system that complies  
 4 with subsection (a). Confirmation is limited to obtaining identities  
 5 of the practitioners from the system and determining whether the  
 6 system indicates that the practitioners are licensed and in good  
 7 standing.

8 (c) Upon request of a person in Indiana authorized under  
 9 subsection (b), or a similarly authorized person in another state, a  
 10 registration system located in Indiana shall notify the person of the  
 11 identities of volunteer health practitioners and whether the  
 12 practitioners are licensed and in good standing.

13 (d) A host entity is not required to use the services of a volunteer  
 14 health practitioner even if the practitioner is registered with a  
 15 registration system that indicates that the practitioner is licensed  
 16 and in good standing.

17 Sec. 19. (a) While an emergency declaration is in effect, a  
 18 volunteer health practitioner, registered with a registration system  
 19 that complies with section 18 of this chapter and licensed and in  
 20 good standing in the state upon which the practitioner's  
 21 registration is based, may practice in Indiana to the extent  
 22 authorized by this chapter as if the practitioner were licensed in  
 23 Indiana.

24 (b) A volunteer health practitioner qualified under subsection  
 25 (a) is not entitled to the protections of this chapter if the  
 26 practitioner is licensed in more than one (1) state and any license  
 27 of the practitioner is suspended, revoked, or subject to an agency  
 28 order limiting or restricting practice privileges or has been  
 29 voluntarily terminated under threat of sanction.

30 Sec. 20. (a) As used in this section:

31 (1) "credentialing" means obtaining, verifying, and assessing  
 32 the qualifications of a health practitioner to provide  
 33 treatment, care, or services in or for a health facility; and

34 (2) "privileging" means the authorizing by an appropriate  
 35 authority, such as a governing body, of a health practitioner  
 36 to provide specific treatment, care, or services at a health  
 37 facility subject to limits based on factors that include license,  
 38 education, training, experience, competence, health status,  
 39 and specialized skill.

40 (b) This chapter does not affect credentialing or privileging  
 41 standards of a health facility and does not preclude a health facility  
 42 from waiving or modifying those standards while an emergency

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1 declaration is in effect.

2 **Sec. 21. (a) Subject to subsections (b) and (c), a volunteer health**  
 3 **practitioner shall adhere to the scope of practice for a similarly**  
 4 **licensed practitioner established by the licensing provisions,**  
 5 **practice acts, or other laws of Indiana.**

6 **(b) Except as provided in subsection (c), this chapter does not**  
 7 **authorize a volunteer health practitioner to provide services that**  
 8 **are outside the practitioner's scope of practice, even if a similarly**  
 9 **licensed practitioner in Indiana would be permitted to provide the**  
 10 **services.**

11 **(c) The state emergency management agency may modify or**  
 12 **restrict the health or veterinary services that volunteer health**  
 13 **practitioners may provide under this chapter. An order under this**  
 14 **subsection may take effect immediately, without prior notice or**  
 15 **comment, and is not a rule within the meaning of IC 4-22-2.**

16 **(d) A host entity may restrict the health or veterinary services**  
 17 **that a volunteer health practitioner may provide under this**  
 18 **chapter.**

19 **(e) A volunteer health practitioner does not engage in**  
 20 **unauthorized practice unless the practitioner has reason to know**  
 21 **of a limitation, modification, or restriction under this section or**  
 22 **that a similarly licensed practitioner in Indiana would not be**  
 23 **permitted to provide the services. A volunteer health practitioner**  
 24 **has reason to know of a limitation, modification, or restriction or**  
 25 **that a similarly licensed practitioner in Indiana would not be**  
 26 **permitted to provide a service if:**

27 **(1) the practitioner knows the limitation, modification, or**  
 28 **restriction exists or that a similarly licensed practitioner in**  
 29 **Indiana would not be permitted to provide the service; or**

30 **(2) from all the facts and circumstances known to the**  
 31 **practitioner at the relevant time, a reasonable person would**  
 32 **conclude that the limitation, modification, or restriction exists**  
 33 **or that a similarly licensed practitioner in Indiana would not**  
 34 **be permitted to provide the service.**

35 **(f) In addition to the authority granted by laws of Indiana other**  
 36 **than this chapter to regulate the conduct of health practitioners, a**  
 37 **licensing board or other disciplinary authority in Indiana:**

38 **(1) may impose administrative sanctions upon a health**  
 39 **practitioner licensed in Indiana for conduct outside of Indiana**  
 40 **in response to an out-of-state emergency;**

41 **(2) may impose administrative sanctions upon a practitioner**  
 42 **not licensed in Indiana for conduct in Indiana in response to**

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an in-state emergency; and

(3) shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(g) In determining whether to impose administrative sanctions under subsection (f), a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

Sec. 22. (a) This chapter does not limit the rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter. Except as provided in subsection (b), this chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

(b) The state emergency management agency, under the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact, may incorporate into the emergency forces of Indiana volunteer health practitioners who are not officers or employees of Indiana, a political subdivision of Indiana, or a municipality or other local government within Indiana.

Sec. 23. The state emergency management agency may adopt rules under IC 4-22-2 to implement this chapter. In doing so, the state emergency management agency shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact and shall also consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

Sec. 24. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 363, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 363 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 363, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 11, nays 0.

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